

Applicant : Baldridge, et al.
Appl. No. : 10/757,268
Examiner : Barry, Chester T.
Docket No. : 700145.4003

REMARKS

Claims 26 through 35 are pending in this application. In the Office Action, the Examiner: (1) rejected claims 26-35 under 35 U.S.C. § 112 for failing to comply with the written description requirement; (2) rejected claims 26-35 for obviousness-type double patenting; and (3) rejected claim 26 under 35 U.S.C. § 102(e) as anticipated by either USP 6,454,871 to Labib or USP 6,348,187 to Pan. Each of the grounds for rejection is addressed below.

1. Section 112 Rejection

The Examiner rejected all claims for failing to satisfy the written description requirement set forth in the first paragraph of 35 U.S.C. § 112. The Examiner did not identify any specific claim limitation(s) that were not sufficiently described in the application as filed. Accordingly, Applicant will identify portions of the specification that provide support for all of the claims and their limitations. I.e., each of the following portions of the specification establish that Applicant was in possession of the claimed invention at the time of filing.

By doing so, Applicant does not take the position that the following portions of the specification are the only such portions providing support, only that these portions are sufficient to support the claims in the manner set forth.

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| <p>26. (Amended) A method for reducing biofilm in an aqueous system, comprising the steps of:</p> | <p>See Specification, pg. 3, ll. 13-19: "The present systems and methods are directed to the use of compositions including enzymes and surfactants to obtain biofilm reduction."</p> |
| <p>providing a mixture containing a surfactant and a yeast fermentation product, <u>said yeast fermentation product comprising a product of the fermentation of a yeast selected from the group consisting of <i>Saccharomyces cerevisiae</i>, <i>Kluyveromyces marxianus</i>, <i>Kluyveromyces lactis</i>, <i>Candida utilis</i> (Torula yeast), <i>Zygosaccharomyces</i>, <i>Pichia</i>, and <i>Hansenula</i>, and</u></p> | <p>See Specification, Pg. 11, line 8 to pg. 12, "Table 2": The preferred composition useful in the biofilm reduction method is shown in Table 2 on page 12. The composition includes a component identified as an "Enzyme Cocktail (Fermentation product of molasses and diastatic malt by <i>Saccharomyces cerevisiae</i>)." Other components include two examples of surfactants.</p> <p>See also Specification, Pg. 9, ll. 11-19: This section describes enzymes used in the described compositions, and the fact that they may be prepared as an enzyme cocktail derived from the fermentation of the additional yeast strains listed in the claim.</p> |

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| introducing the mixture to an aqueous system containing biofilm. | See Specification, pg. 6, ll. 3-11: This section states that the foregoing compositions may be added to a feed stream to decrease fouling caused by biofilm accumulation. |
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| 28. The method of claim 26 wherein said mixture comprises nonionic surfactants from one or more of the classes including alkanolamides, amine oxides, block polymers, ethoxylated primary and secondary alcohols, ethoxylated alkylphenols, ethoxylated fatty esters, sorbitan derivatives, glycerol esters, and polymeric surfactants. | See Specification, pg. 9, line 20 through pg. 10, line 1. |
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| 29. The method of claim 26, wherein said mixture comprises anionic surfactants from one or more of the classes including ethoxylated amines, ethoxylated amides, sulfosuccinates and derivatives, sulfates of ethoxylated alcohols, sulfates of alcohols, and polymeric surfactants. | See Specification, pg. 10, ll. 1-4. |
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| <p>30. The method of claim 26, wherein said fermentation product is present in said mixture at a concentration of from about 5.0% by weight to about 60.0% by weight, and said mixture is added to the aqueous system to obtain a concentration by weight of the mixture of from about 0.1 part per million to about 25 parts per million.</p> | <p>See Specification, pg. 12, Table 2. See also Specification, pg. 12, last line to page 13, line 10.</p> |
| <p>31. (Original) The method of claim 26, wherein said fermentation product is present in said mixture at a concentration of from about 5.0% by weight to about 50.0% by weight, and said mixture is added to the aqueous system to obtain a concentration by weight of the mixture of from about 1 parts per million to about 5 parts per million.</p> | <p>See Specification, pg. 12, Table 2. See also Specification, pg. 12, last line to page 13, line 10.</p> |
| <p>32. (Original) The method of claim 26, wherein said aqueous system is a crossflow filtration system.</p> | <p>See Specification, pg. 12, last line to pg. 13, line 10.</p> |

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| 33. (Original) The method of claim 32 wherein said crossflow filtration system is a reverse osmosis system. | See Specification, pg. 5, line 1. |
| 34. (Original) The method of claim 26, wherein said mixture further comprises micronutrients. | See Specification, pg. 9, lines 17-19. |
| 35. (Original) The method of claim 34, wherein said micronutrients comprise one or more of the following: diammonium phosphate, ammonium sulfate, magnesium sulfate, zinc sulfate, calcium chloride, vitamins, or amino acids. | See Specification, pg. 9, lines 17-19. |

The foregoing portions of the Specification contained in the present application are more than sufficient to demonstrate that, at the time of filing of the parent application, the Applicant was fully in possession of the inventions as claimed herein. Applicants respectfully request withdrawal of the rejection based upon failure to comply with the written description requirement of section 112.

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2. Obviousness-Type Double Patenting

In response to the Examiner's rejection of the claims based upon obviousness-type double patenting, Applicants have submitted an appropriate Terminal Disclaimer with this Amendment. As noted by the Examiner in the Office Action, this Terminal Disclaimer is sufficient to overcome the double-patenting rejection.

3. Rejections Based Upon 35 U.S.C. §102(e)

The Examiner rejected claim 26 as being anticipated by either the Labib or the Pan patents under 35 U.S.C. § 102(e). In response, Applicant has amended claim 26 by incorporating into that claim all of the limitations contained in former claim 27, which had not been rejected over any of the cited references. Claim 27 has been cancelled.

Because claim 26, as amended, contains subject matter that is patentable over the cited Labib and Pan patents, Applicant requests withdrawal of the rejection of claim 26, and allowance of all of the claims that remain pending in the application.

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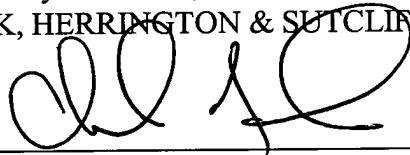
CONCLUSION

In view of the foregoing, it is submitted that the claims presented in this application define patentable subject matter over the cited prior art. Accordingly, Applicant respectfully requests entry of the amendments and allowance of the claims.

The Commissioner is authorized to charge any fee which may be required in connection with this Amendment to deposit account No. 15-0665.

Respectfully submitted,
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